IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Bail Appl..No. 4353 of 2007()

CRIME NO. 443/07 OF THIRUVALLA POLICE STATION

PETITIONER/ACCUSED

DHANDAPANI, S/O.MUTHUSWAMY,
BUSINESS, AGED 43, CHALAKKAPPALLY,
PAZHAVEEDU VILLAGE.

BY ADV. SRI.P.V.LONACHAN
SRI.P.G.PRESANNAKUMAR
SRI.J.MADHUSOODANAN PILLAI

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
THIRUVALLA POLICE STATION, PATHANAMTHITTA DISTRICT

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4353 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for regular bail. The petitioner is the second accused. He faces allegations in a crime registered under Section 420 I.P.C. The crime has been registered on the basis of a private complaint, which has been referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The crux of the allegations against the accused persons (two in number) is that they had obtained from the defacto complainant, who had availed a loan from the second accused, a Power of Attorney as also cheque leaves. Those documents were misused to convey title of the defacto complainant to the first accused.

3. The learned counsel for the petitioner submits that the allegations are totally false and incorrect. Even if the entire allegations are accepted, there are no elements of culpability under Section 420 I.P.C. A civil suit has already been filed. The dispute is one purely of civil nature. Criminal adjudicatory process had been resorted to vex and harass the accused persons, it is submitted.

4. Notice was given to the learned Prosecutor. The Prosecutor does not raise any serious objection. He only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation.

5. Having considered all the relevant inputs, I am satisfied that the petitioner can be granted anticipatory bail. It is unnecessary in the circumstances of the case to advert to the facts in any greater detail. Subject to appropriate conditions, directions under Section 438 Cr.P.C. can be issued in favour of the petitioner.

6. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 25.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that the petitioner executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 26.7.07 and

27.7.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 25.7.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 25.7.2007.

(R. BASANT)
Judge

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